

## § 886.18

### § 886.18 What audit and administrative requirements must I meet?

(a) You must comply with the audit requirements of the OMB Circular A-133.

(b) You must follow administrative procedures governing grant payments, property, and related requirements contained in 43 CFR part 12.

### § 886.19 How must I account for grant funds?

You must do all of the following in accordance with the requirements of 43 CFR part 12:

(a) Accurately and timely account for grant funds;

(b) Adequately safeguard all funds, property, and other assets and assure that they are used solely for authorized purposes;

(c) Provide a comparison of actual amounts spent with budgeted amounts for each grant;

(d) Request any cash advances as closely as possible to the actual time of the disbursement; and

(e) Design a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

### § 886.20 What happens to unused funds from my grant?

(a) If there are any unexpended funds after your grant is completed, we deobligate the funds when we close your grant. We treat unused funds as follows:

(1) We transfer any State share funds under § 872.14 of this chapter or Tribal share funds under § 872.17 that were not expended within three years of the date they were awarded in a grant, except five years for funds awarded in Fiscal Years 2008, 2009, and 2010, to historic coal funds, § 872.21 of this chapter. We distribute any funds transferred to historic coal in the next annual distribution in the same way as historic coal funds from fee collections during that fiscal year.

(2) We hold any unused Federal expense funds under § 872.24 of this chapter for distribution to any State or Indian tribe as needed for the activity for which the funds were appropriated.

(3) We make unused funds of all other types available for re-award to the same State or Indian tribe to which

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they were originally distributed. This includes historic coal funds under § 872.21 of this chapter, minimum program make up funds under § 872.26 of this chapter, and prior balance replacement funds under § 872.29 of this chapter.

(b) If you have any State share funds or Tribal share funds that were distributed to you in an annual distribution under § 872.15 or § 872.18 of this chapter but that were not awarded to you in grant within 3 years of the date they were distributed, or 5 years for funds distributed in Fiscal Years 2008, 2009, and 2010, we transfer the unawarded funds to the historic coal fund under § 872.21 of this chapter and distribute them in the next annual distribution.

### § 886.21 What must I report?

(a) For each grant, you must annually report to us the performance and financial information that we specify.

(b) Upon completion of each grant, you must submit to us final performance, financial, and property reports, and any other information that we specify.

(c) When you complete each reclamation project, you must update the AML inventory.

### § 886.22 What records must I maintain?

You must maintain complete records in accordance with 43 CFR part 12. Your records must support the information you reported to us. This includes, but is not limited to, books, documents, maps, and other evidence. Accounting records must document procedures and practices sufficient to verify:

(a) The amount and use of all Title IV funds received; and

(b) The total direct and indirect costs of the reclamation program for which you received the grant.

### § 886.23 What actions can OSM take if I do not comply with the terms of my grant?

(a) If you, or your subgrantee, fail to comply with the terms of your grant, we may take one or more of the following remedial actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending your correction of the deficiency;

(2) Disallow (that is, deny both use of Federal funds and matching credit for non-Federal funds) all or part of the cost of the activity or action not in compliance;

(3) Wholly or partly reduce, suspend or terminate the current award for your program;

(4) Withhold further grant awards for the program; or

(5) Take other remedies that may be legally available.

(b) If we terminate your State regulatory administration and enforcement grant, provided under part 735 of this chapter, for failure to implement, enforce, or maintain an approved State regulatory program or any part thereof, we will terminate the grant awarded under this Part. This paragraph does not apply to the States of Missouri or Tennessee under section 402(g)(8)(B) of SMCRA, or to the Navajo, Hopi and Crow Indian tribes under section 405(k) of SMCRA.

(c) If you fail to enforce the financial interest provisions of part 705 of this chapter, we will terminate the grant.

(d) If you fail to submit reports required by this part or part 705 of this chapter, we take appropriate remedial actions. We may terminate the grant.

(e) If you fail to submit a reclamation plan amendment as required by §884.15 of this chapter, we may reduce, suspend, or terminate all existing AML grants in whole or in part or may refuse to process all future grant applications.

(f) If you are not in compliance with all Federal statutes relating to non-discrimination, including but not limited to the following, we will terminate the grant:

(1) Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 252 (42 U.S.C. 2000d *et seq.*). "Nondiscrimination in Federally Assisted Programs," which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial as-

sistance, and the implementing regulations in 43 CFR part 17.

(2) Executive Order 11246, as amended by Executive Order 11375, "Equal Employment Opportunity," requiring that employees or applicants for employment not be discriminated against because of race, creed, color, sex, or national origin, and the implementing regulations in 40 CFR part 60.

(3) Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, 87 Stat. 355 (29 U.S.C. 794), as amended by Executive Order 11914, "Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs."

**§ 886.24 What procedures will OSM follow to reduce, suspend, or terminate my grant?**

We will use the following procedures to reduce, suspend, or terminate your grant:

(a) We must give you at least 30 days written notice of intent to reduce, suspend, or terminate a grant. An OSM official authorized to approve your grant must sign our notice of intent. We must send this notice by certified mail, return receipt requested. Our notice must include the reasons for the proposed action and the proposed effective date of the action.

(b) We must give you opportunity for consultation and remedial action before we reduce or terminate a grant.

(c) We must notify you in writing of the termination, suspension, or reduction of the grant. The notice must be signed by the authorized approving official and sent by certified mail, return receipt requested.

(d) Upon termination, you must refund to us that remaining portion of the grant money not encumbered. However, you may retain any portion of the grant that is required to meet contractual commitments made before the effective date of termination.

(e) You must not make any new commitments of grant funds after receiving notification of our intent to terminate the grant without our approval.

(f) We may allow termination costs as determined by applicable Federal cost principles listed in OMB Circular A-87.